

FEBRUARY 19, 2014

The Manasquan Planning Board held a second meeting at 4:00 p.m. on Tuesday February 19, 2014 in the Council Chambers of the Borough Hall, 201 East Main Street, Manasquan, New Jersey.

Chairman Neil Hamilton's statement re: Open Public Meetings Act of 1975 and that notice was given to the Coast Star and the Asbury Park Press and forwarded to the Website on January 16, 2014.

Salute the Flag

Roll Call:

Present: Mayor Dempsey, Chairman Hamilton, Members Rabenda, Harriman, Apostolou, and Thompson

Absent: Council Member McCarthy, Members Muly, Burke, Love, Sullivan, Ragan, and Young

Professionals Present: Board Attorney – Geoffrey S. Cramer and Board Engineer Albert D. Yodakis

Board Attorney Geoffrey Cramer swore Kevin Thompson as Alternate #3 for the Planning Board.

Board Attorney Geoffrey S. Cramer read the rules and time frame for the meeting.

**APPLICATION #07-2014 – Monetti, Lewis – 77 Ocean Avenue – Block: 157 – Lot: 20.01-
Zone: R-2 – Bulk Variances – Demo and Re-Build**

Keith Henderson, Esq. representing the applicant stated the block and lot and zone where the property is located. He advised that it is in the Flood Zone AE, base flood elevation is 9-feet and the minimum first floor elevation is 10 foot. He stated that the secretary of board has been provided with the denial of permit date December 24, 2013, Affidavit of Proof of Service, certified list of the properties owners, copy of the Notice to the property owners and the public utilities, copy of the certified mail receipts, affidavit of publication, copy of the public notice and he respectfully requests that the Board accept jurisdiction of the application.

Mr. Cramer stated that each of the items referenced by Mr. Henderson is in the board's file and appears to be in order.

Mr. Henderson stated that the applicant advertised for a lot coverage requirement variance in being in excess of the 50% requirement and it turns out have been an error. He stated that he does not believe that they will be in excess of that and should be well under the 50% requirement. He also stated that the tech review hit the applicant and the attorney the wrong way. He stated that he understands the function of the tech review committee and that they make suggestions to the planning board and that is how it has been and they would read similar to the engineer's report on specifically on the issue of the height variance. He advised that the engineer

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says that the height of the ceiling will have to be explained to the board along with the base flood elevation and that the applicant will have to justify the request for a height variance. He stated that the tech review committee, which consists of members of the board, has said flat out that the tech review committee is not in favor of the request submitted and that he believes is pre-judging the case before any testimony has been given. He stated that he believes a report like that is out of place and could be a case of reversible error in a case in court. He stated that this cannot be pre-judged and every case has to stand on its own merits.

Chairman Hamilton stated to correct this statement that he believes that the reports have been written in the past and it is to inform the board of the opinion of the tech review committee. He stated that reports from the committee are not always held fast on.

There was discussion on the reports from the tech review committee, who usually writes them and what the intention of the report is.

Mr. Henderson stated that he felt obligated to bring this to the board's attention and he believes that the case will be decided fairly by the board and the committee members that wrote the report. He stated that he has two (2) witnesses that he would like call. One is the property owner, Lewis Monetti and the seconded is the architect Michael Morolo.

Mr. Henderson swore in Lewis Monetti and Michael Morolo along with the Board Engineer.

Mr. Henderson asked Mr. Monetti if he is one of the property owners and how long has he owned this address.

Mr. Monetti stated that he is one of the property owners and he has owned the property since June 2013 which was after Sandy.

Mr. Henderson asked if Mr. Monetti knew the property was damaged by Sandy.

Mr. Monetti stated that the property had 4 to 5 feet of water and the water was above the window level of the home.

Mr. Henderson presented a picture of the home that Mr. Monetti took which depicts the conditions at the house as Exhibit A-1.

Mr. Henderson asked questions of Mr. Monetti as to the height of the water from Sandy and an open space between the homes on the east side.

Mr. Monetti stated that there is an easement and a driveway for access to the rear of the property as well as to a home at 77 1/2 Ocean Avenue that is constructed behind their home.

Mr. Henderson asked if this was the higher home that was identified which is in the rear of the property and does it provide access to the rear of the property to the east.

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Mr. Monetti stated that it provides access to the east and it is also an easement for utilities and that the easement area cannot be constructed on.

Mr. Cramer asked Mr. Henderson about a question was raised in the Engineer's report concerning the utilities for the different structures. He asked if all the utilities were in the access area.

Mr. Monetti stated that it is his understanding that they are and that it seems that the water line is shared for this property and the home behind it and that another water line will be put in when the home is constructed.

Mr. Henderson marked a Google earth picture of the property as Exhibit A-2. He asked Mr. Monetti questions on the picture.

Mr. Monetti stated that this picture depicts the applicant's home in the center and the house to the east is on the left of the picture and that the house on the other side is the home that had water to the front door. He stated that it did not go into the house but up to the porch.

Mr. Henderson marked a Google aerial map green in color as Exhibit A-3. He asked questions of Mr. Monetti.

Mr. Monetti addressed Exhibit A-3 and identified his house on the map and stated that he is pulling his setback back a number of feet. He also commented on the current parking conditions and he is proposing to raise the house to put two (2) cars underneath and move the house back to put one car in the driveway which would remove three (3) cars from potentially being on the street. He also stated that by moving the house back they would not need to nor do they want to park their car behind the house and encroach on the residents that live behind them. He stated they are only looking to move the house back 15 feet which would give more access to the back and enough access in the front to put a car in the driveway if need be. He advised that they are actually looking for 14 feet as setback.

Mr. Cramer asked if the existing house would be lifted or is this going to be a brand new house.

Mr. Henderson stated that at this point depending on what the board does they are talking about a brand new house being built.

Mayor Dempsey asked what the elevation is for that street.

Mr. Henderson stated that the architect will answer that question.

Board Member Harriman asked how much distance is there between the front of the house and the other houses property line.

Mr. Monetti stated that he would not believe that it is more than 10 feet but he does not know for sure.

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There was discussion on the back yard and the parking area and the easement area.

Mr. Mellilo, architect stated his credentials to the board members.

Chairman Hamilton stated that the credentials are approved.

Mr. Henderson asked questions of Mr. Melillo regarding the setbacks and variances of the application.

Mr. Melillo answered that he was retained by the applicant in this matter to design a new house to fit on this lot. He also answered that there were some challenges in the design as the lot is narrow and part of the lot is taken up by a driveway easement. He advised that 3.5 feet of the driveway easement is on the subject property. He went over the variances that are required and the setbacks that are currently on the property and what is proposed. He stated that the proposed application would be improving the access to the rear of the property. He stated that on the westerly side of the property the set back required is 5 feet, 1.2 is existing, and the proposed is at least 3 feet to avoid any fire issues that relate to the fire code. He went over the other variances that are required except for the height as the height is what the board has an issue with. He went over the stairs on the side setbacks and the dormer. He went over the intent of the applicant and the code and advised that there was not set back on the side. He stated that the building coverage ordinance permits 30% and the existing house is 42.4% and the intent was to actually reduce, stay the same, or slightly reduce the existing building coverage on the property. He stated that originally the application was for 51.9% building coverage. He stated that there was a mistake on the plan of the lot coverage on sheet A-5 and he went over the correct numbers that should be on A-5 which should be total lot coverage of 46.3%.

Mr. Henderson asked questions of Mr. Melillo regarding the height of the proposed home.

Mr. Melillo stated that the base flood elevation is 9 which require the first floor to be set at elevation 10. He stated that the lowest elevation on the property is 3.4 and the lower slab level work is proposed to be at 3.9. He stated that the minimum height is 3.9 to get out of the flood plain to comply with the FEMA requirements which are the lowest that can be used. He went over how he came to get to use the lowest level of elevation and how the garage doors have been worked in to accommodate a vehicle. He went over every level and the height of each level and the joists that would be used.

Mayor Dempsey asked what the first floor elevation is.

Mr. Melillo stated that the first floor elevation is 12 and he explained how he got to that number and that this is as tight as he can get everything with the garage under the home.

Mr. Henderson asked Mr. Melillo if he received a copy of resolution 43-2013 which is for a home directly across the street. This resolution was marked as Exhibit A-4.

Mr. Melillo stated that he did receive a copy of the resolution.

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Mr. Henderson asked if Mr. Melillo referred specifically to the heights and dimensions that were used in that particular resolution and asked if that was 2 feet over the floor elevation was 12.

Mr. Melillo stated that he did use those dimensions.

Mr. Henderson read a portion of resolution 43-2013, page 4 referring to the findings of the board for the property located across the street.

Mr. Henderson questioned Mr. Melillo on the homes in the neighborhood and the size of them. He then stated that he has no further questions.

Chairman Hamilton asked if the Board Members had any questions.

Board Member Apostolou asked Mr. Melillo as to the left side setback and that he wishes to maintain it at 4.3 but the plans show it as 4.4.

Mr. Melillo stated that it is 4.4 feet which is 4.33 feet so he is three one hundredths off from that.

There was discussion on the 4.4 and 4.3.

Board Member Harriman asked if the right side would be cantilevered where it shows 3 feet.

Mr. Melillo stated that there is a subtle cantilever on that side so it is set back slightly but just a normal construction practice. He showed the board on the plans how the cantilever.

Board Member Harriman stated that the east side would be set back a foot and the west side would not.

Mr. Melillo stated that is correct and showed the board on the plans. He also went over the proposal of enclosing the pilings to coincide with an ordinance that is being worked on by the Borough of Manasquan requiring such pilings to be enclosed. He went over the storage areas that are proposed which are located on site diagram A-5 on the lower level.

There was discussion on different options for garage doors and the possibility of reducing the height with a different type of garage door. There was also discussion on the height of the lower level.

Mayor Dempsey stated that he has a problem with it being 12 feet to the first floor.

Chairman Hamilton stated that the rest of the testimony should be heard and then the height as the height is going to be an issue.

Mr. Melillo stated what the insurance rates are in that zone and that the insurance carriers are encouraging homeowners to take the extra foot or two. He stated that the one foot under is about \$800.

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There was discussion on the correct elevation for the property, where parking could be located, and ways to bring the lower level down, and different types of garage doors.

Mayor Dempsey asked what the pitch of the roof is.

Mr. Melillo stated that the ridge on the third floor is at 8 feet and the side walls are at 7 feet.

Mayor Dempsey asked what the pitch of the roof is 6 on 12, 10 on 12, 8 on 12?

Mr. Melillo stated that the pitch that covers the living portion of the dwelling is about 1 ½. He stated that it goes from 8 to 7 over 8 ½ feet. He stated that the rest of the roof is a 12 pitch.

There was discussion on the pitch of roof and the dormers.

Board Member Harriman commented on the type of garage door that should be used in the beach area.

It was stated that the lot coverage is less than the existing coverage and the intention was to try to make it a better situation all around.

Board Member Rabenda stated that he believes that the roof pitch should not be changed.

Mr. Cramer asked Mr. Henderson about the engineer's report and Mr. Henderson went over the report and responded to each of the paragraphs. He also stated that since the water line is tied together with the other home the water line will be replaced so that the lines are separate.

Board Member Apostolou made a motion to open this hearing to the public, seconded by Board Member Thompson. Motion carried unanimously.

Kevin Kern, 77 ½ Ocean Avenue, which is the house behind the applicants, stated that he had a big concern about the lot coverage of 51.8 which was in Mr. Henderson's letter. He stated that he was assured by Mr. Monetti and Mr. Melillo prior to this meeting that it is 46.8%. He stated that all of the concerns that he had before the presentation have been cleared up.

Board Member Apostolou asked Mr. Kern if he was satisfied, based on the testimony that all his concerns have been cleared up.

Mr. Kern stated that he is pretty satisfied.

There was discussion on the parking area in the back and the amount of space that would be available.

Tom Bateman, 43 Pearce Court stated that the planning board does a magnificent job establishing guidelines within which a home can be built. He stated that he has built homes in Manasquan and he has never once asked for a variance. He stated that he has respected the Board's request to be contained within the boundaries which have been set and the heights that

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have been set over the years. He stated that he is building a house on Ocean Avenue and the lot is slightly over 25 feet wide and he didn't ask for a variance. He voiced his opinion on how a home should be considered and why the setbacks are established, and height requirements. He went over the height of the house that he is building on Ocean Avenue. He stated that it would just take a little compromise to respect what the Board has set forth as the guidelines.

Gary Seem, 41 Pearce Court stated that the applicant is seeking 9 variances for this structure and the current building has 6 deviations from the current zoning ordinances. He stated that the objective of the board here is to look at ways to reduce the number of deviations on zoning around the town. He stated that the idea is to maintain integrity and fairness and uniformity was being built throughout Manasquan. He stated that as a neighbor he finds it unacceptable to have a height variance. He went over his situation with his house and the elevation. He voiced his opinion on the applicant's requested variances. He recommended that the board reject this application and ask them to resubmit something that meets the zoning ordinances within the town. He stated that it is possible because he did it with his home and any new structure should abide by the laws.

Mr. Henderson questioned Mr. Seem on his responses to the board and went over the variances that have been submitted by the applicant.

Board Member Apostolou made a motion to close the audience participation, seconded by Board Member Rabenda. Motion carried unanimously.

There was discussion on different ways to try and bring the height down and there was discussion on other homes in the area and what they were granted.

Chairman Hamilton stated that each application is reviewed on its own merit and he stated his comments on the application.

Mr. Henderson reiterated the setbacks of the home and the lot coverage and read a portion of the resolution from the home across the street. He voiced his concern of the parking if the garage would need to be lowered.

Chairman Hamilton advised Mr. Henderson that if he wanted to bring in a resolution from the property across the street which is a bigger lot then he can request a carryover so the Board would have an opportunity to go back and look at the other application and resolution. He stated that they can proceed any way they wish but he thinks that it is too much to ask of the applicant for what he has currently to go up to 2 ½ story where it is habitable living space on the third floor. He does think the parking is a good thing.

There was a 5 minute break in order for the applicants to discuss the issues and recommendations of the board.

It was agreed by the parties to reduce the roof by 20 inches to comply with the height restrictions.

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Board Member Apostolou made a motion to approve the application as offered with the reduction in height to conform to the zoning ordinance, seconded by Board Member Harriman. Motion carried by the following vote: "yes" Mayor Dempsey, Chairman Hamilton, Board Members Rabenda, Harriman, Apostolou, and Thompson. "No" none.

APPLICATION #09-2014 – Taglione, Mark and Vicki – 471 Euclid Avenue – Block: 143-Lot: 13, 14 – Zone: R-2 – Bulk Variances – Housing raising, Height Variance

Mr. Cramer swore in Vicki and Mark Taglione, homeowners and the Borough Engineer Al Yodakis.

Ms. Taglione went over the location of the home and the application that is before the board. She went over the report from the Engineer which stated that the base flood elevation for the property is 10 feet which requires a minimum first floor elevation of 11 feet. She stated that the building height permitted is 33 feet and 34.8 feet is proposed. She stated that they are only raising the house and they are not changing the foot print.

Chairman Hamilton stated that the applicant needs to go up 3 feet to meet FEMA's requirement.

Ms. Taglione went over the amount of water that affected the property from Super Storm Sandy. She stated that if they are going to do all this work on the house that they are up high enough to avoid any future flooding. She stated that the house is not being expanded it is just going up by 1.8 feet.

There was discussion on other homes in the area that have been raised up after the storm. There was also discussion on the Engineer's report.

Chairman Hamilton stated that about 25% of the house would be the second story on the east side which has caused the problem over the garage.

Board Member Apostolou inquired about a new statue that was adopted by Governor Christie and inquired if the applicant would be exempt because they are just going higher. He stated that if the applicant is willing to reduce the height to the base flood elevation of 11 feet then they would not have to get board approval.

Mr. Taglione stated that insurance wise they would and the cost of insurance, if you are at the base flood elevation, you will still have to pay.

The applicants stated that they bought the house and put \$150,000 into it in trying to clean it up so they are not interested in doing anything but raising the home.

Board Member Apostolou pointed out that under definitions that the highest applicable flood elevation means the new FEMA base flood elevation plus an additional 3 feet.

There was discussion on the height that is requested and what is allowed.

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Chairman Hamilton went over the Tech Review report for this application. Board Member Harriman voiced her concerns with the Christie Law and she believes that it appears that the applicant does not have to be here because they are going straight up.

Board Member Apostolou asked the engineer if he did an analysis of the Christie Law and asked that if the interpretation of the Christie Law is to grant 3 feet above the base flood elevation would the applicant be within the parameters.

Mr. Yodakis stated that they would be.

Mr. Cramer stated that he has no problem exempting it but the exemption should take place administratively when it comes into the zoning officer. He stated that he has waived that by the applicants appearing before the board and they are seeking the Board's approval for a variance relief to elevate the house with a distance that the statutes seem to address. He stated that it is not this board's function to give the exemption it either exists in the discussion of the zoning officer to approve it as a lift situation but that was waived and it is now before the board.

Board Member Apostolou stated that given all that has been reported that he is going to deem this to be a court of equity in a sense. He stated that believes that it meets with all the parameters to elevate the house and that all that has been granted he believes that it falls within the Planning Board's right to grant them the variance.

There was discussion on the laws that have been passed about elevating homes and the base flood maps.

Board Member Apostolou stated that there is nothing else this couple is doing then lifting the home.

Board Member Thompson made a motion to open to the public, seconded by Board Member Apostolou. Motion carried unanimously.

There being no comments Board Member Apostolou made a motion to close the public hearing, seconded Board Member Thompson. Motion carried unanimously.

Board Member Thompson made a motion to approve this application, seconded by Board Member Apostolou. Motion carried by the following vote: "yes" Mayor Dempsey, Chairman Hamilton, Board Members Rabenda, Harriman, Apostolou, and Thompson. "No" none

RESOLUTION #06-2014 – Leischner, Steven and Jacklyn – 3 Pickell Alley – Block: 169.06 – Lot: 54 – Zone: R-3

Board Member Apostolou made a motion to approve resolution 06-2014, seconded by Board Member Rabenda. Motion carried with the following members voting: "yes" Mayor Dempsey, Chairman Hamilton, Board Members Rabenda, Harriman, Apostolou, and Thompson. "No" none

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APPROVAL OF MINUTES

Second Meeting – October 15, 2013

Board Member Apostolou made a motion to approve the minutes, seconded by Board Member Harriman. Motion carried unanimously.

OLD/NEW BUSINESS:

Chairman Hamilton stated that he would like to discuss items in order to get the new zoning ordinance in place.

The following items were discussed: repeal Option A&B in section 35-9.4, revise section 35-11.2, revise dormer definition in section 35-3, revise impervious coverage section 35-3, revise section 7.7 & section 20-4 – driveways and curb cuts, revise section 35-11.8, and plot plans for new construction in R-1 and R-2 zones. There was also discussion on changing the height from 33 to 34 feet and having an ordinance where all new utilities have to be underground. There was also discussion on the area between the sidewalk and the curb on First Avenue and the covering of pilings on new homes.

The board agreed to hold on the impervious coverage and plot plans for new construction and move ahead with the other items to be incorporated into an ordinance.

Mr. Hamilton stated that he will meet with the Borough Attorney and get the ordinance done with the additions and deletion that were discussed for the Planning Board's review.

AUDIENCE PARTICIPATION

Board Member Thompson made a motion to open the meeting to the public, seconded by Board Member Rabenda. Motion carried unanimously.

There being no comment Board Member Rabenda made a motion to close the public portion, seconded by Council Member Thompson. Motion carried unanimously.

Board Member Harriman made a motion to adjourn the meeting at p.m., seconded by Board Member Apostolou. Motion carried unanimously.

Respectfully submitted,



Barbara Ilaria, RMC
Acting Planning Board Secretary

DATE APPROVED 5-6-14